

Exhibit IND22

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

NEUROGRAFIX, a California corporation;
WASHINGTON RESEARCH FOUNDATION,
a not-for-profit Washington corporation,

Plaintiffs,

vs.

SIEMENS MEDICAL SOLUTIONS
USA, INC., a Delaware corporation; and
SIEMENS AKTIENGESELLSCHAFT,
a German Corporation,

Defendants.

Case No. 10-CV-1990 MRP (RZx)

[Assigned to The Honorable Mariana
R. Pfaelzer]

**REBUTTAL EXPERT REPORT OF
DR. AARON FILLER, M.D., PH.D,
FRCS TO THE EXPERT REPORT
OF MICHAEL E. MOSELEY
CONCERNING U.S. PATENT NO.
5,560,360**

First Amended Complaint Filed:
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non-neural tissue would result in small conspicuity despite the fact that the nerve is clearly more conspicuous than the non-neural tissue.

41. For the comparison of minimum intensities, it also ignores important, basic medical and technical information within the knowledge of one having ordinary skill in the art. Depending on resolution, intra-nerve signal intensity can be very low and non-neural tissue can have an effective signal intensity of zero, which would cause a division by zero calculation error. Although it is true that the zero division problem could be solved by substituting 1 for zero, it is further the case that using such an algorithm would lead to a situation where if a nerve that is bright has a single pixel inside it that it rendered dark because of rapid blood flow in a small artery at the center of the nerve, then the entire nerve would be treated as dark even though it was obviously bright. These non-sensical results are inimical to patient care.

42. Dr. Moseley also fails to cite to any literature that supports using either the maximum or minimum proposed methods to calculate conspicuity in an MRI data set. As discussed above, Dr. Moseley's own papers use the method disclosed in the patent.

43. In my opinion, Dr. Moseley is also wrong in paragraphs 29-31 where he opines that one having ordinary skill in the art would understand conspicuity to mean more than the definition expressly included in the specification and file history. As discussed above, the contemporaneous literature at the time is consistent with the definition in the intrinsic evidence. *See, e.g.,* M.E. Moseley et al., *Diffusion-Weighted MR Imaging of Acute Stroke: Correlation with T2-Weighted and Magnetic Susceptibility-Enhanced MR Imaging in Cats*, ANJR 11:423-29 (May/June 1990); M.E. Moseley et al., *Comparison of Gd- and Dy-Chelates for T2* Contrast-*

*Enhanced Imaging**, Magnetic Resonance In Medicine 22, 259-64 (1991) (referring to ANJR 1990 paper for explanation how to calculate conspicuity); M.E. Moseley et al., *Early Detection of Regional Cerebral Ischemia in Cats: Comparison of Diffusion- and T2-Weighted MRI and Spectroscopy*, Magnetic Resonance in Medicine 14:330-346 (1990).

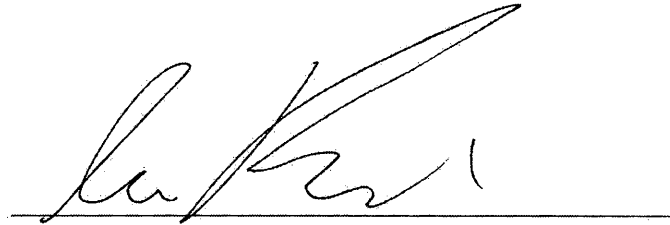
44. Furthermore, Dr. Moseley's citation to the conspicuity algorithms disclosed in Hallberg et al. and Seeley et al. is inappropriate and misleading. Both Hallberg et al. and Seeley et al. address calculating conspicuity in an X-ray, not an MRI. In an X-ray, the entire volume appears as a flattened projection on a single image plane so that, for example, a rib passing a few inches behind the lung and a lesion will be seen through both of them. Thus, as a result of this flattening, conspicuity must be calculated by taking data points from both the lesion (which includes data other than the lesion) and the surrounding field image. An MRI image, however, does not suffer from the same flattened projection image issues. If the techniques taught by Hallberg et al. and Seeley et al. were to be used for an MRI cross section of nerve, then complexity occurring only within the nerve would be added to the area around it. A person having ordinary skill in the art would understand the inappropriateness of this. As a result, the methods described in both Hallberg et al. and Seeley et al. are not appropriate for an MRI and one having ordinary skill in the art would know that the cited algorithms are irrelevant.

45. I have also been unable to find any papers, either in the 1992 time frame or later, where either the Hallberg et al. or the Seeley et al. method is used to calculate conspicuity in an MRI data set.

46. In paragraphs 22-32, Dr. Moseley discussed and shows that the algorithms he cites will result in different data. This statement is irrelevant

I declare under penalty of perjury that the statements in this report are true
and correct.

Executed on February 1, 2011 in Santa Monica, California.

A handwritten signature in black ink, appearing to read 'A. Filler', is written over a horizontal line.

Dr. Aaron Filler, M.D., Ph.D., FRCS